

OGC 76-1481

22 March 1976

MEMORANDUM FOR: John N. McMahon
Acting Deputy Director for Administration

SUBJECT: Legality of Serving Food and Drinks to
Visiting Groups

1. This is in response to your memorandum of 19 March 1976 regarding the above in which you specifically inquire as to "whether there are Federal, State or County statutes which prohibit our serving food and drinks for which the visiting groups reimburse the Agency." At the outset, it should be noted that the Federal Government and the State of Virginia exercise concurrent jurisdiction over the Agency facility. Accordingly, we are governed in this matter both by Federal procedures and guidelines established by the General Services Administration (GSA) as well as by the applicable Virginia law.

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2. In a discussion on 22 March the undersigned had with Mr. [REDACTED] of your staff, it was determined that the existing practice is for the STATINTL Agency to purchase the food and alcoholic beverages for such affairs in each case from outside business concerns (state-regulated stores in the case of alcohol). It was further understood that each member of the group attending the briefing in question is required to pay a certain amount based on the total Agency expenditure for the food and drink. The refreshments are prepared and served by Agency personnel with absolutely no participation by GSA or GSI employees or facilities.

3. In connection with Virginia requirements, it should be pointed out that VA. CODE ANN. § 4-15 (1973) specifically authorizes state liquor stores to sell alcoholic beverages to Federal instrumentalities. The state has reserved limited jurisdiction over the land upon which the Agency sits to impose license taxes upon any business conducted on the land. However, a state may not impose or collect any tax on or from the United States or any instrumentality thereof. 4 U.S.C. 105. See also McCulloch v. Maryland, 17 U.S. 316. More recently, the Supreme Court has held that Federal instrumentalities are specifically immune from state liquor taxes. United States v. State Tax Commission, 421 U.S. ___, 44 L. Ed. 2d 204, 95 S. Ct. 1872 (1975). Accordingly, since the briefings in question are for official Agency purposes, I have concluded based on the above that the practice of serving food and drink for a price is neither prohibited by state or county law nor subject to any local sales or licensing taxes.

4. With regard to Federal requirements, I contacted Mr. Don Young of the Office of General Counsel, GSA, on 22 March. Mr. Young asked at the outset if the Agency had received the requisite waiver from GSA excepting CIA from the general prohibition against serving alcoholic beverages on Federal property as set forth in GSA regulations (41 C.F.R. 101-20.306). I was able to reply in the affirmative, having received from Mr. [REDACTED] a STATINTL copy of a 22 February 1971 letter from GSA Administrator Robert L. Kunzig to then CIA Director Helms granting such a waiver. In light of this waiver, Mr. Young advised that the Agency could thus arrange for such affairs to be privately catered and charge each participant an appropriate fee to cover the costs to the Agency of purchasing the food and drink therefor. He emphasized the requirement that there be no GSA connection or participation in such affairs.

5. Accordingly, since the Agency appears to be following the above procedure for the briefings in question, I have concluded that the existing Agency practices in this area are consistent with the appropriate statutory and regulatory authority.

[REDACTED]

Office of General Counsel
Operations & Management Law Division

STATINTL

(Attachment - Item 1 See 2)

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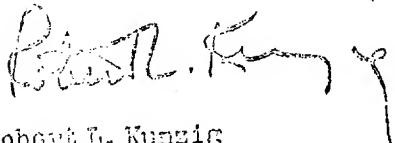
Honorable Richard Helms
Director, Central Intelligence
Agency
Washington, D.C. 20505

Dear Mr. Helms:

In response to Mr. Coffey's letter of January 25, authorization is hereby granted to you to serve alcoholic beverages at your headquarters in McLean, Virginia, as an exception to section 101-19.306 of the Federal Property Management Regulations and subject to the following:

1. The serving of alcoholic beverages will be completely arranged for by the hosting official, and General Services Administration building custodial, craft, or contract personnel will not be involved as participants, onlookers, or in any other manner.
2. The hosting official will be fully responsible for the proper management of affairs at which alcoholic beverages are to be served to assure appropriate conduct by participants at all times.
3. Full or partially filled alcoholic beverage bottles, glasses, or other containers will be handled so as to preclude GSA building custodial, craft, or contract personnel or other unauthorized persons from having access thereto during or following affairs at which alcoholic beverages are served.

Sincerely,



Robert L. Kunzig
Administrator

Keep Freedom in Your Future With U.S. Savings Bonds

Washington, D.C. 20503

OGC 71-603..

25 January 1971

The Honorable Robert L. Kunzig
Administrator of General Services
18th and F Streets, N. W.
Washington, D. C. 20405

Dear Mr. Kunzig:

This is to request an exemption from the prohibition of the General Services Administration regulation (41 C.F.R. 101-19, 306) to permit the use of alcoholic beverages on the Federal property occupied by this Agency at McLean, Virginia.

As you know, the Agency's headquarters are in McLean and the Director, his senior staff, and the major portion of our employees are located here. From time to time it is necessary for the Director and other senior officials to meet with foreign officials and individuals as well as influential American citizens from private life. Normally, there are security considerations pertaining to such official contacts, and in many instances our guests request that these meetings not be publicized or readily observable. We cannot, therefore, provide appropriate social amenities in public places. In addition, there are commemorative or similar events which should be appropriately recognized with participation of Agency personnel as well as citizens from private life. Because of the security relating to the identity of certain of these individuals or their relation to the Agency or the United States Government, again we are unable to use public facilities. At meetings of this sort, it is customary to serve alcoholic beverages in moderation. It is for these reasons that we believe we need the exemption referred to above. We would maintain strict controls on such activities, with particular regard for the protection of Government property and for the reputation of the Government and its employees.

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We, of course, will be glad to submit any additional information or to meet with you or other GSA officials concerning this request.

Sincerely,

(signed) John W. Coffey

John W. Coffey
Deputy Director
for Support

OCC:RHL:sin (19 Jan 71)

Distribution:

Original - Addressee

2 - DDS

1 - OGC

1 - D/L on 28 Jan 71

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1 - OGC/1 AD

lottery or pool, or the selling or purchasing of numbers tickets, in or on property, is prohibited.

§ 101-20.306 Alcoholic beverages and narcotics.

Operating a motor vehicle on property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering property under the influence of any narcotic drugs, hallucinogen, marijuana, barbiturate, amphetamine, or alcoholic beverage (unless prescribed by a physician) is prohibited. The use on property of any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine (unless prescribed by a physician) is prohibited. The use of alcoholic beverages on property is prohibited except on occasions and on property upon which the Administrator of General Services has for appropriate official uses granted an exemption permit in writing.

§ 101-20.307 Soliciting, vending, and debt collection.

Soliciting alms and contributions, commercial soliciting and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts in or on GSA-controlled property is prohibited. This rule does not apply to (1) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service" issued by the Civil Service Commission under Executive Order 10927 of March 18, 1961, and sponsored or approved by the occupant agencies; (2) concessions or personal notices posted by employees on authorized bulletin boards; and (3) solicitation of labor organization membership, or dues authorized by occupant agencies under Executive Order 11491 of October 29, 1969, as amended.

§ 101-20.308 Distribution of handbills.

The distributing of materials such as pamphlets, handbills, and/or flyers, and the displaying of placards or posting of materials on bulletin boards or elsewhere on property is prohibited, except as authorized in § 101-20.307 or when such distributions or displays are conducted as part of authorized Government activities.

§ 101-20.309 Photographs for news, advertising, or commercial purposes.

Photographs for news, advertising, or commercial purposes may be taken in space occupied by an agency only with the consent of the occupying agency concerned. Except where security regulations apply, or a Federal court order or rule prohibits it, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of an authorized official of the agency occupying the space where the photographs are to be taken.

§ 101-20.310 Dogs and other animals.

Dogs and other animals, except seeing-eye dogs, shall not be brought upon property for other than official purposes.

§ 101-20.311 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles in or on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of guards and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on property is prohibited;

(c) Except in emergencies, parking in or on property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons or continuously in excess of 18 hours without permission, or contrary to the direction of posted signs, is prohibited. This section may be supplemented from time to time, with the approval of the appropriate Regional Administrator, by the issuance and posting of specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part hereof.

§ 101-20.312 Weapons and explosives.

No person while on property shall carry firearms, other dangerous or deadly weapons, or explosives either openly or concealed except for official purposes.

§ 101-20.313 Nondiscrimination.

There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing

or by refusing to furnish or persons the use of public nature, including privileges, accommodations provided thereby

§ 101-20.314 Penalties.

Whoever shall be found violating any rule or regulation in part 101-20.3 while under the charge and subject to a fine of not more than \$1000 or imprisonment of not more than one year, or both. (See 40 U.S.C. 101-20.3 in these rules and regulations construed to abrogate laws or regulations of local laws and regulations in which situated.

Subpart 101-20.4

Subpart 101-20.5—Fees

§ 101-20.500 Scope.

This subpart prescribes methods for the protection of buildings and grounds under the control of GSA; participation of occupant in establishing certain aspects of protection; requires the protection of buildings and other unlawful property of GSA officials; establishment of self-help organizations to be used except enemy attack.

§ 101-20.501 Basic protection.

For buildings and grounds under the control of GSA has space assigned to it, GSA will furnish as protection not less than the degree provided by commercial operators of similar space occupied, as determined by GSA; protection may include entry and inspection when GSA determines it is warranted for general protection and not necessary; activities of specific protection required due to business conducted with unusual public reaction, programs and mission of a continuing nature determined jointly by GSA and agency or agencies and on a reimbursable basis with Subpart 101-21.4.

DD/A Registry

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DDA 76-1420

19 March 1976

MEMORANDUM FOR: General Counsel

FROM : John F. Blake
Deputy Director for AdministrationSUBJECT : Legality of Serving Food and Drinks
to Visiting Groups

1. Will you please look into the legality of the Agency's serving food and drinks to "outside" groups who are invited here for briefings. Specifically, we are interested in whether there are Federal, State or County statutes which prohibit our serving food and drinks for which the visiting groups reimburse the Agency.

2. I would appreciate a response by the close of business Wednesday, 24 March.

/s/John F. Blake

John F. Blake

Distribution:

Orig - Addressee
 1 - DDA Subject
 1 - DDA Chrono
 1 - RFZ Chrono

STATINTL EO/DDA, [REDACTED] :1m (19 March 76)